

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

COMPETITIVE PRODUCT PRICES  
GLOBAL EXPEDITED PACKAGE SERVICES 8 CONTRACTS  
NEGOTIATED SERVICE AGREEMENTS

Docket No.  
MC2017-183

COMPETITIVE PRODUCT PRICES  
GLOBAL EXPEDITED PACKAGE SERVICES 8 CONTRACTS  
(MC2017-183)  
NEGOTIATED SERVICE AGREEMENT

Docket No.  
CP2017-284

**REQUEST OF THE UNITED STATES POSTAL SERVICE TO ADD  
GLOBAL EXPEDITED PACKAGE SERVICES 8 CONTRACTS TO THE  
COMPETITIVE PRODUCTS LIST, AND  
NOTICE OF FILING (UNDER SEAL) OF CONTRACT AND APPLICATION FOR  
NON-PUBLIC TREATMENT OF MATERIALS FILED UNDER SEAL  
(September 5, 2017)**

In accordance with 39 C.F.R. § 3642 and 39 C.F.R. § 3020.30 et seq., the United States Postal Service (Postal Service) hereby requests that Global Expedited Package Services 8 (GEPS 8) Contracts be added to the competitive product list within the Mail Classification Schedule (MCS). Pursuant to 39 U.S.C. § 3632(b)(3) and 39 C.F.R. § 3015.5, the Postal Service also gives notice that it has entered into a GEPS 8 contract with a customer.

Prices and classifications not of general applicability for the GEPS 8 Contracts product are authorized by the Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates (Governors'

Decision No. 11-6).<sup>1</sup> Accordingly, the Postal Service requests that the Postal Regulatory Commission (Commission) list the GEPS 8 contract included in this filing, together with any subsequent functionally equivalent GEPS 8 contracts, as one product on the competitive products list within the MCS.<sup>2</sup>

In support of this Request and Notice, the Postal Service is filing the following attachments:

- Attachment 1 - a Statement of Supporting Justification of Donald W. Ross, Executive Director, International Sales, filed pursuant to 39 C.F.R. § 3020.32;
- Attachment 2 – a redacted version of Governors’ Decision No. 11-6, which authorizes management to prepare any necessary product description of nonpublished competitive services, including text for inclusion in the MCS, and to present such matter for review by the Commission;
- Attachment 3 - proposed revisions to MCS section 2510.3 to accommodate GEPS 8 Contracts;<sup>3</sup>
- Attachment 4 - a redacted version of the GEPS 8 contract that is the subject of Docket No. CP2017-284;

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<sup>1</sup> See Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates (Governors’ Decision No. 11-6), March 22, 2011, included as Attachment 2 to this request and notice. An unredacted copy of this decision is filed under seal with the Commission with this filing.

<sup>2</sup> See PRC Order No. 85, Order Concerning Global Plus Negotiated Service Agreements, Docket Nos. CP2008-8, CP2008-9, and CP2008-10, June 27, 2008, at 8 (applying standards for the filing of functionally equivalent contracts).

<sup>3</sup> In addition, the Postal Service is filing Attachment 3 in a separate Word file.

- Attachment 5 – a redacted version of the certified statement concerning the GEPS 8 contract that is the subject of Docket No. CP2017-284, which is required by 39 C.F.R. § 3015.5(c)(2); and
- Attachment 6 – an application for non-public treatment of materials filed under seal.

Redacted versions of the supporting financial documentation for the GEPS 8 contract that is the subject of Docket No. CP2017-284 are included with this filing in separate Excel files.

Governors' Decision No. 11-6, the GEPS 8 contract that is the subject of CP2017-284, the certified statement concerning the GEPS 8 contract that is the subject of CP2017-284, along with the supporting financial documentation, which establish compliance with 39 U.S.C. §§ 3632-3633 and 39 C.F.R. § 3015.5 and 3015.7, are being filed separately under seal with the Commission.

***I. Identification of Existing GEPS 8 Contract***

One GEPS 8 Contract is submitted with this filing. That contract's terms fit within the proposed MCS language for GEPS 8 Contracts, included as Attachment 3 of this filing. GEPS 8 Contracts, similar to GEPS 5 Contracts, are contracts whereby the Postal Service provides prices for some combination of Priority Mail International (PMI), Priority Mail Express International (PMEI), First Class Package International Service (FCPIS) and Commercial ePacket (CeP) parcels to a customer, as well as a system through which customs duties are paid by the mailer in lieu of the destination country postal operator collecting such duties and taxes from the recipient. However, GEPS 8

Contracts include an additional price table, for PMEI parcels sent through the GEPS 8 product.

Thus, Annex 1 of the GEPS 8 Contract included with this filing contains a price table for PMEI parcels sent through the GEPS 8 product. The rates in that table are set by country of destination and weight. PMEI parcels have a maximum weight of 70 pounds. The dimensions for PMEI parcels in the GEPS 8 product are identical to those for PMEI, which are set forth in section 2305.2 of the Mail Classification Schedule.<sup>4</sup>

Annex 2 of the GEPS 8 contract included with this filing contains a price table for PMI parcels sent through the GEPS 8 product. The rates in that table are set by country of destination and by weight. PMI parcels have a maximum weight of 70 pounds. The dimensions for PMI parcels in the GEPS 8 product are identical to those for PMI, which are set forth in sections 2315.2 of the Mail Classification Schedule.<sup>5</sup>

Annex 3 of the GEPS 8 contract included with this filing contains a price table for CeP parcels sent through the GEPS 8 product. CeP parcels have a maximum weight of 4 lbs., and the dimensions for CeP parcels are identical to those set forth for Packages (Small Packets) in section 2510.6.2 of the Mail Classification Schedule.

The Postal Service will notify the customer for this GEPS 8 contract of the effective date of the agreement, after all necessary reviews of the agreement have been completed, including a favorable review by the Commission. If the effective date of the agreement is the first of the month, the agreement that is the subject of this docket is set to expire one year after its effective date. If the effective date of the agreement is

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<sup>4</sup> See Postal Regulatory Commission (PRC), (Draft) Mail Classification Schedule (posted January 22, 2017 (with revisions through June 23, 2017), available at <http://www.prc.gov/mail-classification-schedule>.

<sup>5</sup> *Id.*

not the first of the month, the agreement is set to expire on the last day of the month in which the effective date falls in the year subsequent to the effective date.

***II. Filing under Part 3020, Subpart B of the Rules of Practice and Procedure***

The Statement of Supporting Justification of Donald W. Ross, Executive Director, International Sales, is included as Attachment 1 in accordance with Part 3020, Subpart B, of the Rules of Practice and Procedure. This Statement provides support for the addition of the GEPS 8 Contracts product to the competitive products list.

Under 39 U.S.C. § 3642(b), the only criteria for such review are whether the product qualifies as market dominant, whether it is excluded from the postal monopoly, and whether the proposed classification reflects certain market considerations. Each of these criteria has been addressed in this case.

First, as for 39 U.S.C. § 3642(b)(1), the product does not qualify as market dominant. The Postal Service does not exercise sufficient market power so that it can effectively set the price of GEPS 8 “substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.”<sup>6</sup> Therefore, the Postal Service is proposing that the GEPS 8 Contracts product be added to the competitive products list. Subsequently, other functionally equivalent contracts would be added to the list as price categories under the GEPS 8 Contracts listing.

Second, as for 39 U.S.C. § 3642(b)(2) and whether the product is excluded because it is subject to postal monopoly, the Qualifying Mail in GEPS 8 contracts are intended for the conveyance of merchandise, which falls outside the scope of the Private Express Statutes. Furthermore, any “letters” as defined by 39 C.F.R. § 310.1(a)

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<sup>6</sup> 39 U.S.C. 3642(b)(1).

that are inserted in such items would likely fall within the suspensions or exceptions to the Private Express Statutes. For instance, the rates at issue in the contract that is the subject of Docket No. CP2017-284 exceed the scope of the reserved area in 39 U.S.C. § 601. Moreover, the suspension for outbound international letters covers the mailing activity in question here.<sup>7</sup>

Therefore, there is no need to ponder further whether GEPS 8 Contracts, as defined by the proposed MCS language, are market-dominant or covered within the postal monopoly. The additional considerations listed in 39 U.S.C. § 3642(b)(3) are addressed by Mr. Ross' Statement of Supporting Justification. Because all of section 3642's criteria for classification have been met, the Postal Service respectfully urges the Commission to act promptly by adding the GEPS 8 Contracts product to the competitive products list as requested.

### ***III. Application for Non-Public Treatment***

The Postal Service maintains that certain portions of Governors' Decision 11-6, the GEPS 8 contract that is the subject of CP2017-284, the certified statement concerning the GEPS 8 contract that is the subject of CP2017-284, and related financial information should remain confidential. In accordance with 37 C.F.R. § 3007.21 the Postal Services files, as Attachment 6 to this request and notice, the Postal Service's application for non-public treatment of materials filed under seal. A full discussion of the requested elements of the application appears in Attachment 6.

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<sup>7</sup> See 39 C.F.R. § 320.8.

**IV. Conclusion**

For the reasons discussed, the Postal Service believes that the GEPS 8 Contracts product should be added to the competitive products list. The Postal Service asks that the Commission approve this Request.

As required by 39 U.S.C. § 3642(d)(1), a notice concerning this Request is being sent for publication in the Federal Register.

Respectfully submitted,

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September 5, 2017

## Statement of Supporting Justification

I, Donald W. Ross, Executive Director, International Sales, am sponsoring the Request that the Postal Regulatory Commission (Commission) add the Global Expedited Package Services (GEPS) 8 product filed in Docket Nos. MC2017-183 and CP2017-284 to the competitive products list for prices not of general applicability. The proposed revised Mail Classification Schedule (MCS) language for GEPS 8 describes the requirements for this product. My statement supports the United States Postal Service's (Postal Service's) Request by providing the information required by each applicable subsection of 39 C.F.R. § 3020.32. I attest to the accuracy of the information contained herein.

- (a) *Demonstrate why the change is in accordance with the policies and applicable criteria of the Act.*

The addition of this new product is in accordance with the policies and applicable criteria of the Act, because GEPS 8 is a product designed to increase the efficiency of the Postal Service's processes and enhance its ability to compete in the marketplace, while assuring that the product is not subsidized by market dominant products, covers the costs attributable to it, and does not cause competitive products as a whole to fail to make the appropriate contribution to institutional costs.

- (b) *Explain why, as to market dominant products, the change is not inconsistent with each requirement of 39 U.S.C. § 3622(d), and that it advances the objectives of 39 U.S.C. § 3622(b), taking into account the factors of 39 U.S.C. § 3622(c).*



Not applicable.

- (c) *Explain why, as to competitive products, the addition, deletion, or transfer will not result in the violation of any of the standards of 39 U.S.C. § 3633.*

The Postal Service's financial modeling in support of the GEPS 8 product included a cost-coverage analysis that was based on expected revenues and attributable costs of the service of the first agreement submitted under this product grouping. This modeling demonstrated that GEPS 8 resulted in adequate cost coverage to ensure that no cross subsidization of this product by market-dominant products should occur. It also demonstrated that this new product should be able to contribute to institutional costs in addition to covering its own attributable costs.

- (d) *Verify that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can, without risk of losing a significant level of business to other firms offering similar products: (1) set the price of such product substantially above costs, (2) raise prices significantly; (3) decrease quality; or (4) decrease output.*

The addition of the GEPS 8 product to the competitive products list will not result in classifying a product over which the Postal Service has market dominance as a competitive product. The GEPS 8 product consists of Priority Mail International (PMI), Priority Mail Express International (PMEI), First-Class Package International Service (FCPIS), and Commercial e-Packet (CeP) services, which are a small part of all international revenue received by the Postal Service. International revenue makes up a small fraction of total Postal Service revenue. In the recent annual reports of two of the Postal Service's

competitors in the international package delivery market, Federal Express reported international revenue of \$8.24 billion for its FY2016, and United Parcel Service reported international revenue of \$12.35 billion for its FY2016. The Postal Service does not maintain a position of dominance in this market.

- (e) *Explain whether or not each product that is the subject of the request is covered by the postal monopoly as reserved to the Postal Service under 18 U.S.C. § 1696, subject to the exceptions set forth in 39 U.S.C. § 601.*

The GEPS 8 product consists of PMEI, PMI, FCPIS and CeP. These products have already been previously classified as competitive products, falling outside the scope of the Private Express Statutes.

- (f) *Provide a description of the availability and nature of enterprises in the private sector engaged in the delivery of the product.*

As noted in part (d) above, major competitors in the market for Priority Mail Express International and Priority Mail International include Federal Express and United Parcel Service, which are widely available to customers in the United States. Private consolidators, freight forwarders, and integrators also offer international shipping arrangements whereby they provide analogous delivery services under similar conditions.

- (g) *Provide any available information on the views of those who use the product on the appropriateness of the proposed modification.*

The GEPS 8 product, like the GEPS 5 product, should be a solution for improving ease of use and customer satisfaction. This product grouping accordingly gives our customers an available option to improve customer satisfaction, simplicity, and ease of use.

I am not aware of any negative views from international negotiated service agreement customers concerning the proposal to add GEPS 8 to the competitive products list.

- (h) *Provide a description of the likely impact of the proposed modification on small business concerns.*

The business concerns that engage in international package delivery services typically are not small business concerns, because of the resources necessary to compete in the industry. Large shipping companies, consolidators, and freight forwarders serve this market, particularly with respect to the type of customers represented by the GEPS 8 product; the Postal Service is unaware of any small business concerns that could offer comparable service for these volumes.

The small business concerns utilizing the GEPS 8 product will likely observe a positive impact. By offering GEPS 8, the Postal Service will be able to more quickly provide the small businesses access to pricing incentives that will help them reduce their own cost of doing business.

- (i) *Include such other information, data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed modification.*

This product grouping offers customers the possibility of receiving CeP service outside the context of Global Plus agreements. It also provides customers with a convenient option for handling duties and taxes assessed by the destination country. In summary, we believe this new innovation will improve ease of use, simplicity, and customer satisfaction.

**RESTRICTED AND SENSITIVE BUSINESS INFORMATION - DO NOT DISCLOSE**

**DECISION OF THE GOVERNORS OF THE UNITED STATES POSTAL SERVICE ON THE  
ESTABLISHMENT OF PRICES AND CLASSIFICATIONS FOR DOMESTIC COMPETITIVE  
AGREEMENTS, OUTBOUND INTERNATIONAL COMPETITIVE AGREEMENTS, INBOUND  
INTERNATIONAL COMPETITIVE AGREEMENTS, AND OTHER NON-PUBLISHED  
COMPETITIVE RATES (GOVERNORS' DECISION NO. 11-6)**

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March 22, 2011

**STATEMENT OF EXPLANATION AND JUSTIFICATION**

Pursuant to our authority under section 3632 of title 39, as amended by the Postal Accountability and Enhancement Act of 2006 ("PAEA"), we establish new prices not of general applicability for certain of the Postal Service's competitive service offerings, and such changes in classification as are necessary to implement the new prices.

This decision establishes prices for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates. Domestic Competitive Agreements consist of negotiated service agreements with Postal Service customers for domestic services that are categorized as competitive in accordance with 39 U.S.C. § 3642(b)(1)-(2). Outbound International Competitive Agreements consist of negotiated service agreements with Postal Service customers for outbound international services that are categorized as competitive in accordance with 39 U.S.C. § 3642(b)(1)-(2). Inbound International Competitive Agreements consist of negotiated service agreements with foreign postal operators or other entities for inbound international services that are categorized as competitive in accordance with 39 U.S.C. § 3642(b)(1)-(2). Other Non-Published Competitive Rates consist of rates not of general applicability that are not embodied in contractual instruments, but nonetheless arise from other sources, such as the Universal Postal Convention.

**RESTRICTED AND SENSITIVE BUSINESS INFORMATION - DO NOT DISCLOSE**

**Governors' Decision No. 11-6**

**Page 2**

With respect to any product within the above categories, management is hereby authorized to prepare any necessary product description, including text for inclusion in the Mail Classification Schedule, and to present such product description to the Postal Regulatory Commission.

The Postal Accountability and Enhancement Act (PAEA) requires that prices for competitive products must cover each product's attributable costs, not result in subsidization by market dominant products, and enable all competitive products to contribute an appropriate share to the Postal Service's institutional costs. For agreements subject to this Decision, there are hereby established all prices that will cover [REDACTED] costs for the relevant product and that conform in all other respects to 39 U.S.C. §§ 3632-3633 and 39 C.F.R. §§ 3015.5 and 3015.7. As discussed in the accompanying management analysis, the Chief Financial Officer (or his delegate(s)) shall certify that all cost inputs have been correctly identified for prices subject to this Decision and that all prices subject to this Decision conform to this Decision and to the requirements of the PAEA.

No agreement, grouping of functionally equivalent agreements, or other classification authorized pursuant to this Decision may go into effect unless it is submitted to the Postal Regulatory Commission with a notice that complies with 39 U.S.C. § 3632(b)(3). On a quarterly basis, management shall furnish the Governors with a report on all non-published rate and classification initiatives. Not less than once each year, the Governors shall review the basis for this Decision and make such further determination as they may deem necessary. This Decision does not affect postal management's obligation to furnish to the Board of Governors information regarding any significant, new program, policy, major modification, or initiative, or any other matter under 39 C.F.R. § 3.7(d), including where such a matter also falls within the scope of this Decision.

**RESTRICTED AND SENSITIVE BUSINESS INFORMATION - DO NOT DISCLOSE**

**Governors' Decision No. 11-6**

**Page 3**

This Decision does not supersede or otherwise modify Governors' Decision Nos. 08-5, 08-6, 08-7, 08-8, 08-10, 08-20, 08-24, 09-5, 09-6, 09-7, 09-14, 09-15, 09-16, 10-1, 10-2, 10-3, 10-6, and 10-7, nor does it affect the validity of prices and classifications established under those Decisions. Management may also continue to present to the Postal Regulatory Commission for its review, as appropriate, rate and classification changes to succeed the minimum and maximum non-published rates in Decision Nos. 10-2 and 10-6.

**ORDER**

In accordance with the foregoing Decision of the Governors, the prices set forth herein for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates and the changes in classification necessary to implement those prices, are hereby approved and ordered into effect. An agreement is authorized under this Decision only if the prices fall within this Decision and the certification process specified herein is followed. Prices and classification changes established pursuant to this Decision will take effect after filing with and completion of review by the Postal Regulatory Commission.

By The Governors:

A handwritten signature in black ink, appearing to read "Lou Giuliano", is written over a horizontal line.

Louis J. Giuliano  
Chairman

RESTRICTED AND SENSITIVE BUSINESS INFORMATION - DO NOT DISCLOSE

## **Attachment A**

### **Management Analysis of Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates**

This analysis concerns the inbound competitive prices and classifications in the Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates (collectively, "competitive instruments"). Competitive instruments are often negotiated with customers and foreign postal operators for better cost coverage, higher overall contribution, and improved service with respect to postal services classified as competitive. They may also arise from other sources, such as the Universal Postal Convention.

The cost coverage for each competitive agreement or grouping of functionally equivalent instruments (collectively, each "product") will be [REDACTED]

[REDACTED]

The cost coverage for a product equals [REDACTED]

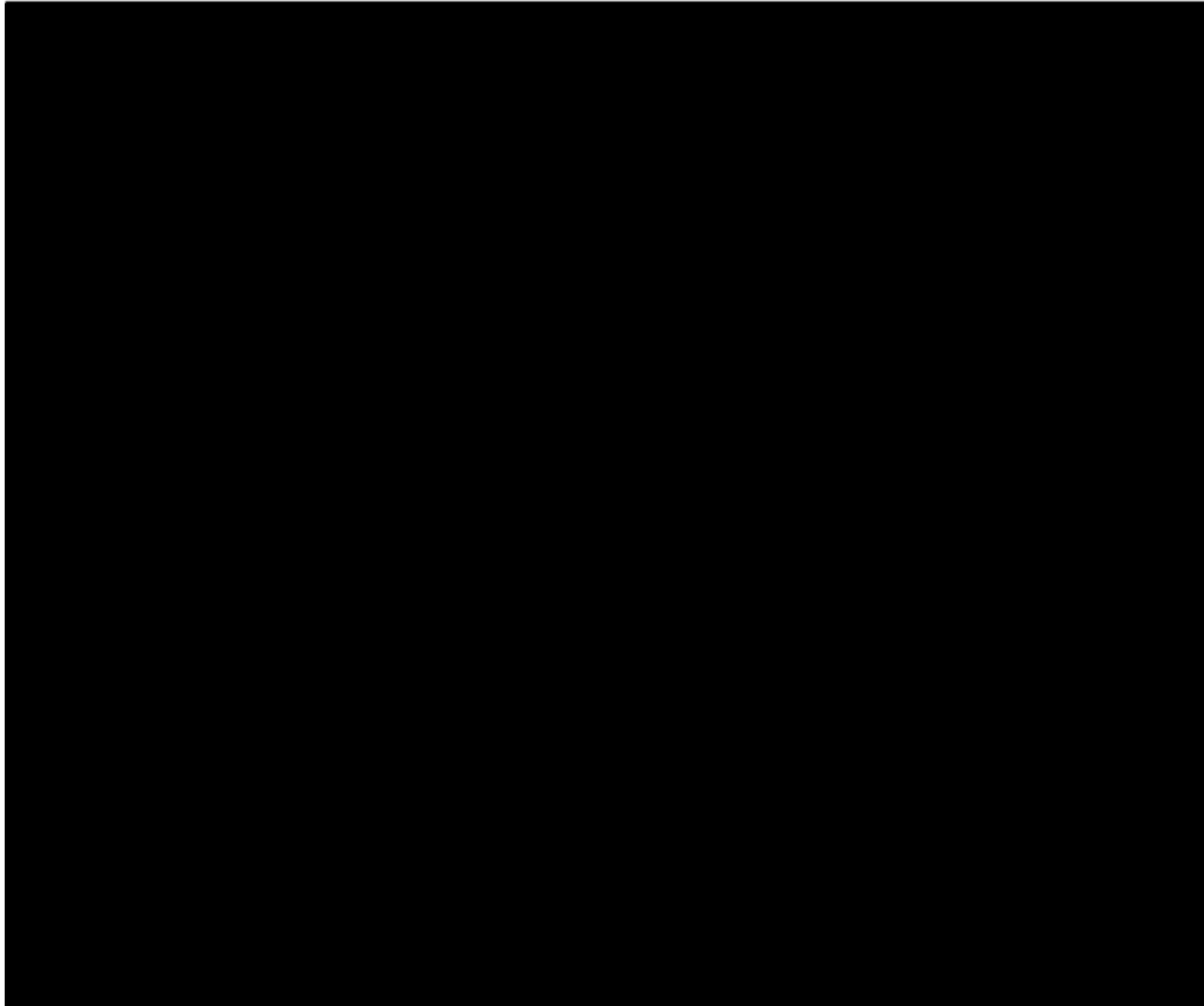
[REDACTED]

[REDACTED]

Each competitive instrument may have multiple price categories and negotiated components. Examples of such categories or components would be Priority Mail, Express Mail, Parcel Return Service, Priority Mail International, Express Mail International, International Priority Airmail, International Surface Air Lift, Inbound Air Parcel Post, Inbound Surface Parcel Post, Inbound Direct Entry, and Inbound International Expedited Services. These or other categories may include other services that the relevant customer or foreign postal operator offers to its customers under differing terms, but that nevertheless are processed and delivered in the same manner within the United States Postal Service's network. Such instruments may also establish negotiated rates for services ancillary to such items and for customized competitive services developed for application solely in the context of the agreement.

[REDACTED]

RESTRICTED AND SENSITIVE BUSINESS INFORMATION - DO NOT DISCLOSE

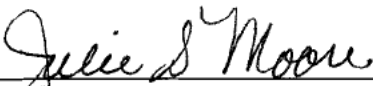


Prices established by these formulas should not interfere with competitive products' ability as a whole to comply with 39 U.S.C. § 3633(a)(3), which, as implemented by (39 C.F.R. § 3015.7(c)) requires competitive products to contribute a minimum of 5.5 percent to the Postal Service's total institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products should arise (39 U.S.C. § 3633(a)(1)).



**CERTIFICATION OF GOVERNORS' VOTE  
IN THE  
GOVERNORS' DECISION NO. 11-6**

I hereby certify that the Governors voted on adopting Governors' Decision No. 11-6, and that, consistent with 39 USC 3632(a), a majority of the Governors then holding office concurred in the Decision.

  
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Julie S. Moore  
Secretary of the Board of Governors

Date: 3/22/2011

## 2510.3 Global Expedited Package Services (GEPS) Contracts

### 2510.3.1 Description

- a. Global Expedited Package Services (GEPS) Contracts provide incentives for Priority Mail Express International (PMEI), Priority Mail International (PMI), Commercial ePacket (CeP) and/or First-Class Package International Service (FCPIS) for all destinations served by each respective product.

\* \* \* \* \*

### 2510.3.2 Size and Weight Limitations

#### *Priority Mail Express International<sup>1</sup>*

	Length	Height	Thickness	Weight
Minimum	Large enough to accommodate postage, address, and other required elements on the address side			<u>none</u>
Maximum	<del>36</del> <u>79</u> inches			<u>70 pounds</u>
	<del>79</del> <u>108</u> inches in combined length and girth			

#### Notes

- Country-specific restrictions may apply as specified in the International Mail Manual.

#### *Priority Mail International<sup>1, 2</sup>*

	Length	Height	Thickness	Weight
Minimum <sup>2</sup>	5.5 inches	none	3.5 inch	none
	<u>For customer-provided packaging, large enough to accommodate postage, address, custom labels, and any other required elements on the address side</u>			
Maximum	42 <u>79</u> inches			70 pounds
	79 <u>108</u> inches in combined length and girth			

#### Notes

- Weight and other exceptional size limits based on shape and destination country restrictions may apply as specified in the International Mail Manual.
- ~~Items must be large enough to accommodate postage, address and other required elements on the address side.~~

*First-Class Package International Service &  
 Commercial E-Parcel Service Packages (Small Packages)*

*Packages (Small Packages)*

	Length	Height	Thickness	Weight
Minimum	Large enough to accommodate postage, address, and other required elements on the address side			none
Maximum	24 inches			4 pounds
	Length plus height plus thickness of 36 inches			

*Rolls*

	Length	Length plus twice the diameter	Weight <sup>1</sup>
Minimum	4 inches	6.75 inches	none
Maximum	36 inches	42 inches	4 pounds

**Notes**

1. Country-specific restrictions apply as specified in the International Mail Manual.

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2510.3.6 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

\* \* \* \* \*

- GEPS 8  
Baseline Reference  
Docket Nos. MC2017-183 and CP2017-284  
PRC Order No. [#####], [Month Day, Year]

**GLOBAL CUSTOMIZED MAIL AGREEMENT BETWEEN THE UNITED STATES POSTAL SERVICE  
AND [REDACTED]**

This Agreement ("Agreement") is between [REDACTED] ("Mailer"), with offices at [REDACTED] and the United States Postal Service ("USPS"), an independent establishment of the Executive Branch of the United States Government, with offices at 475 L'Enfant Plaza SW, Washington, DC 20260-9998. The Mailer and the USPS may be referred to individually as a "Party" and together as the "Parties."

**Introduction.** WHEREAS, the Parties desire to enter into a non-exclusive relationship whereby the USPS will provide certain products and/or services to the Mailer pursuant to the terms and conditions contained herein; WHEREAS, the Parties desire to be bound by the terms of this Agreement; NOW, THEREFORE, in consideration of the mutual promises set forth below, the Parties hereby agree as follows:

**1. Purpose of the Agreement.** This Agreement shall govern the use the Mailer may make of customized mail service for Priority Mail Express International ("PMEI"), Priority Mail International ("PMI"), and Commercial E-Packet ("CeP") [REDACTED]

**2. Postage Payment through a Permit Imprint using USPS-provided Global Shipping Software (GSS) or other USPS-approved software.** The Mailer shall pay postage to the USPS through the use of a permit imprint subject to the conditions stated in IMM 152.6 and DMM 604.5 that shall not be used for any other type of mail than Qualifying Mail that meets the requirements set forth in Article 4 of this Agreement.

**3. Definitions.** As used in this Agreement: (1) "IMM" means the *International Mail Manual* as found on the USPS website [pe.usps.com](http://pe.usps.com) on the date of mailing. (2) "DMM" means the *Domestic Mail Manual* as found on the USPS website [pe.usps.com](http://pe.usps.com) on the date of mailing. (3) "Effective Date" means the first date on which the USPS is willing to accept Qualifying Mail. (4) "Qualifying Mail" means mail that meets the requirements set forth in Article 4 of this Agreement. (5) "Non-Qualifying Mail" means mail that does not meet the requirements set forth in Article 4 of this Agreement. Priority Mail International tendered to the USPS at a Business Mail Entry Unit, at a USPS retail window, or at any commercial mail receiving agency are Non-Qualifying Mail. (6) "PMEI Preparation Requirements Document" means the USPS document the USPS document entitled [REDACTED]

[REDACTED] setting forth the preparation requirements and payment requirements for Commercial E-Packet Qualifying Mail, which the USPS Shall provide the Mailer. (7) "PMI Preparation Requirements Document" means the USPS document entitled [REDACTED]

[REDACTED] setting forth the preparation requirements and payment requirements for Priority Mail International Qualifying Mail, which the USPS shall provide the Mailer. (8) "CeP Preparation Requirements Document" means the USPS document entitled [REDACTED]

[REDACTED], setting forth the preparation requirements and payment requirements for Commercial E-Packet Qualifying Mail, which the USPS shall provide the Mailer. (9) "Mailer" means Contractholder acting as Mailer.

**4. Qualifying Mail.** Only mail that meets the requirements set forth in IMM 220 for Priority Mail Express International, and the PMEI Preparation Requirements Document, IMM 230 for Priority Mail International and the PMI Preparation Requirements Document, or the CeP Preparation Requirements Document, with the exception of: (a) Any Fiat Rate Item; and (b) Any item addressed to persons or entities identified on the Office of Foreign Assets Control's (OFAC's) Specially Designated Nationals List, OFAC's Foreign Sanctions Evaders List, the Bureau of Industry and Security's (BIS's) Denied Persons List, or BIS's Entity List, or subject to active sanctions by the U.S. Department of State pursuant to Executive Order No. 13382; shall be considered as Qualifying Mail, except as those requirements conflict with the applicable requirements set forth in Article 8.

**5. Treatment of Non-Qualifying Mail.** The USPS, at its option and without forfeiting any of its rights under this Agreement, may refuse to accept Non-Qualifying Mail or may accept Non-Qualifying Mail at the applicable published prices.

**6. Specific Preparation Requirements.** (1) Mailings of Qualifying Mail must be kept separate from any other type of mail the Mailer tenders and may only be presented at the Entry Site specified in Article 9(2). (2) Qualifying Mail must be prepared in accordance with the PMEI Preparation Requirements Document, PMI Preparation Requirements Document, or the CeP Preparation Requirements Document, and must be accompanied by a postage manifest and postage statement. (3) Mailer agrees to abide by any additional preparation requirements prescribed by USPS or [REDACTED] or by the customs authorities of the United States or [REDACTED]



**7. Obligations of the USPS.** The USPS hereby agrees: (1) Transportation To arrange with carriers to transport Qualifying Mail to international destinations where the proper authority will effect delivery. (2) Undeliverable Items To return: (a) PMI Qualifying Mail items refused by an addressee or that are undeliverable, to the Mailer according to the provisions of IMM 771. (b) CeP Qualifying Mail refused by an addressee or that are undeliverable to the Mailer [REDACTED]. (3) Postage To provide prices for Qualifying Mail paid for and tendered as required by this Agreement. (4) Confidentiality To seek non-public treatment of information it determines to be eligible for protection from public disclosure under applicable law and practice when it files the Agreement with the Postal Regulatory Commission ("Commission"), or when it files information (including data) in connection with the Agreement in accordance with other regulatory requirements. (5) Technical Assistance To provide the Mailer with technical assistance necessary to prepare information linkages, electronic data files, and data exchanges as required for the proper functioning of USPS-provided Global Shipping Software (GSS). (6) To pay [REDACTED] for duties, taxes, and fees on behalf of Mailer. [REDACTED]

**8. Obligations of the Mailer – General.** The Mailer hereby agrees: (1) Postage To pay postage for Qualifying Mail in accordance with the price charts in the Annexes to this Agreement. (2) Customs and Export Documentation To provide any necessary documentation, including data provided in electronic format, in connection with each mailing, in the form and at the time specified by the USPS, Customs & Border Protection, Transportation Security Administration, the U.S. Census Bureau, a destination country foreign government, or other authority. The Mailer further understands that the failure to provide any such required documentation may result in refusal at acceptance, delay in processing, involuntary seizure by customs authorities, and/or return of mail to the sender. (3) Customs and Export Requirements To comply with any regulation or order promulgated by the USPS, OFAC, the U.S. Department of the Treasury, the U.S. Census Bureau, BIS, the U.S. Department of Commerce, the U.S. Department of State, the U.S. Customs & Border Protection, the U.S. Fish and Wildlife Service, the Transportation Security Administration, a destination country foreign government, or other governmental unit, according to any requirements specified by those authorities. See IMM 5 for additional information. (4) Tender Not to: (a) Tender or attempt to tender any item under this Agreement that is destined for any country included in Country Group E-1 under Supplement No. 1 to Title 15, Code of Federal Regulations, Part 740 available at [www.gpo.gov/fdsys/pkg/CFR-2013-title15-vol2/pdf/CFR-2013-title15-vol2-part740-appNo-.pdf](http://www.gpo.gov/fdsys/pkg/CFR-2013-title15-vol2/pdf/CFR-2013-title15-vol2-part740-appNo-.pdf); (b) Tender or attempt to tender any item addressed to persons or entities identified on OFAC's Specially Designated Nationals List, OFAC's Foreign Sanctions Evaders List, BIS's Denied Persons List, or BIS's Entity List, or subject to active sanctions by the U.S. Department of State pursuant to Executive Order No. 13382; (c) Tender or attempt to tender any item on behalf of third parties or entities identified on OFAC's Specially Designated Nationals List, OFAC's Foreign Sanctions Evaders List, BIS's Denied Persons List, or BIS's Entity List, or subject to active sanctions by the U.S. Department of State pursuant to Executive Order No. 13382. (d) Tender or attempt to tender any item that requires an export license or specific license, as applicable, from BIS, OFAC, the U.S. Department of State, the U.S. Department of Energy, or any other governmental unit that imposes restrictions on exports. (5) Confidentiality To treat as confidential and not disclose to third parties, absent express written consent by the USPS, any information related to this Agreement that is treated as non-public by the Commission. (6) Penalties To pay any fines or penalties as well as any other expenses, damages, and/or charges, including any applicable duties, taxes, and/or fees that result from an action of any other governmental entity that regulates exports and/or imports in relation to any item tendered under this agreement, or that results from the Mailer's failure to comply with applicable laws and regulations of the origin country, destination country, or any country through which a mailing tendered under this Agreement passes (including failure to provide necessary documentation and/or failure to obtain any required license or permit). (7) Notice of Investigations, Prosecutions, or Proceedings. To notify USPS, via e-mail to [globaltradecompliance@usps.gov](mailto:globaltradecompliance@usps.gov) and [internationalmailsecurity@usps.gov](mailto:internationalmailsecurity@usps.gov), of all criminal, civil, or administrative investigations, prosecutions, or proceedings relating to violations or potential violations of export control, customs, fraud, data, or mailability laws concerning transactions involving the Mailer, brought against the Mailer, any of its subsidiaries or affiliates, or any of its directors, officers, employees, or agents, in no case more than 5 business days after discovery.

**9. Additional Obligations of the Mailer.** The Mailer hereby agrees: (1) Advance Notification To provide: (a) The Manager, Customized Mail, USPS, via e-mail to [icmusps@usps.gov](mailto:icmusps@usps.gov), with notification of any new permit number(s) to be used for Qualifying Mail at least ten (10) days in advance of the expected start date of mailings under the new permit number(s). The notification should include the permit number, the city, state, and ZIP Code where the permit is held, the name of the permit owner, and the requested implementation date. (b) The appropriate USPS acceptance site with notice of intent to mail. (2) Tender To present the mailings to the USPS at the acceptance location(s) as set forth in the PMI Preparation Requirements Document or the CeP Preparation Requirements Document, as applicable. (3) Address Labels and Customs Declarations To create address labels and Customs declarations for Qualifying Mail using USPS-provided Global Shipping Software (GSS). (4) Information Link To establish the necessary linkages with the USPS so that: (a) The Mailer and the USPS can exchange data transmissions concerning the Mailer's packages; (b) The USPS can, at the Mailer's request, extract information by scanning the Mailer-provided barcode on each package. (5) Data



Transmission To exchange electronic information with the USPS according to the instructions the USPS provides. (6) Customs Duties and Taxes To pay duties, taxes, and fees assessed by customs and postal authorities as provided in Article 15.

**10. Minimum Commitment.** The Mailer is required to meet an annualized minimum commitment of [REDACTED]

**11. Term of the Agreement.** (1) The USPS will notify the Mailer of the Effective Date of the agreement as soon as possible, but no later than thirty (30) days, after receiving the approval of the entities that have oversight responsibilities for the USPS. If the Effective Date of this Agreement is the first of the month, the Agreement shall remain in effect for one calendar year from the Effective Date (for example, if the Effective Date of the Agreement is April 1, the Agreement will expire on March 31 of the subsequent year), unless terminated sooner pursuant to Article 12, Article 13, or Article 34. If the Effective Date of this Agreement is not the first of the month, the Agreement shall remain in effect until the last day of the month in which the Effective Date falls in the year subsequent to the Effective Date (for example, if the Effective Date of the Agreement is April 2 or a later day in April, the Agreement will expire on April 30 in the subsequent year), unless terminated sooner pursuant to Article 12, Article 13, or Article 34. (2) The USPS shall have no obligation to notify the Contractholder of the status of the approval process or of potential fulfillment of the approval process. (3) The Mailer acknowledges that this Agreement is subject to regulatory oversight and such oversight might affect the Effective Date. (4) If the Mailer has met its annualized minimum commitment under Article 10, the USPS may, prior to the expiration of this Agreement, provide notice to the Mailer in accordance with Article 10 that this Agreement has been extended for up to an additional three (3) months, and the USPS reserves the right to adjust the duration of such extension, depending on the effective date, if any, of a successor agreement with the Mailer.

**12. Termination of the Agreement.** (1) Either Party to this Agreement, in its sole discretion, may terminate the Agreement for any reason, without cost, fault, or penalty, except as provided for in Paragraph 3 of this Article, regardless of whether either Party is in default, upon a thirty (30) day written notification, unless a time frame longer than thirty (30) days that falls within the term of the Agreement is indicated by the terminating Party. (2) If the Mailer is not in compliance with this Agreement, USPS will have the right to immediately terminate or suspend performance under this Agreement. (3) In the event that this Agreement is terminated for any reason before the termination date provided for in Article 11 (including for the reasons and under the terms set forth in Article 34), any penalties arising under this Agreement, shall be enforceable, and the minimum commitment in Article 10 shall be calculated on a pro rata basis to reflect the actual duration of the Agreement. (4) The USPS is under no obligation to remind the Mailer of the termination of this Agreement. In addition, the USPS is under no obligation to enter into a subsequent agreement with the Mailer.

**13. Modification of the Agreement.** (1) Any modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement, with the exception of changes to prices under the terms of Article 14 and with the exception of a notice of termination under Article 12, shall be binding only if placed in writing and signed by each Party. (2) Modifications may be contingent upon any and all necessary approvals by USPS management's executive committee, the Board of Governors of the USPS, the Governors of the USPS, the Commission, and/or any other governmental body with oversight responsibility for the USPS. (3) If such approvals are required, the modifications will not become effective until such time as all necessary approvals are obtained. (4) The USPS will notify the Mailer of the date the modification becomes effective within thirty (30) days after receiving the approval of the entities that have oversight responsibility for the USPS. (5) The USPS shall have no obligation to notify the Mailer of the status of the approval process or of potential fulfillment of the approval process.

**14. Postage Updates.** (1) In the event that the USPS incurs an increase in costs [REDACTED] the USPS shall notify the Mailer and modify the prices established under this Agreement. [REDACTED] (2) The USPS will give the Mailer thirty (30) days' notice of changes to the prices in the Annexes of this Agreement. (3) Any revision of prices in the Annexes of this Agreement shall not be retroactive. (4) No price shall increase beyond the non-discounted published price for the affected service. (5) If Mailer does not agree to such increase in price, then Mailer may avail itself of the termination provision contained in Article 12 of this Agreement. (6) All price changes under the provisions of this Article will be subject to review and oversight by the USPS Governors, the USPS Board of Governors, and/or the United States Postal Regulatory Commission.

**15. Customs Duties and Taxes.** (1) Customs duties, taxes, and/or fees for Qualifying Mail tendered under this Agreement are the responsibility of the Mailer. (2) In addition to payment of duties and taxes, Mailer agrees [REDACTED]



[REDACTED]

**16. Entire Agreement and Survival.** This Agreement, including all Annexes thereto and any corresponding written local pickup agreement, shall constitute the entire agreement between the Parties regarding customized prices for Priority Mail Express Mail International, Priority Mail International and Commercial E-Packet [REDACTED]

[REDACTED] commencing on the Effective Date of the Agreement, and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either Party except to the extent incorporated in this Agreement. The provisions of Article 7, Paragraph 4; Article 8, Paragraph 5; and Article 18 shall expire ten (10) years from the date of termination or expiration of this Agreement. The terms and conditions of other provisions that by their context or nature are intended to survive after performance hereunder shall survive the termination or expiration of this Agreement.

**17. Force Majeure.** Neither Party shall be liable for its failure to perform under the terms of this Agreement due to any contingency beyond its reasonable control, including acts of God, fires, floods, wars, sabotage, accidents, labor disputes or shortages; governmental laws, ordinances, rules and regulations, whether valid or invalid; court orders whether valid or invalid; inability to obtain material, equipment or transportation; and any other similar or different contingency.

**18. Confidentiality.** The Mailer acknowledges that this Agreement and supporting documentation will be filed with the Commission in a docketed proceeding. The Mailer authorizes the USPS to determine the scope of information that must be made publicly available in any Commission docketed proceeding in which information related to this Agreement must be filed. The Mailer further understands that any unredacted portion of the Agreement or supporting information will be available on the Commission's public website, [www.prc.gov](http://www.prc.gov). In addition, the USPS may be required to file information in connection with this Agreement (including revenue, cost, or volume data) in other Commission dockets, including the Commission docket number for the Annual Compliance Report (ACR) for the USPS fiscal year(s) in which this Agreement is in effect. Each ACR docket has a distinct docket number, such as ACR201#, in which "201#" signifies the USPS fiscal year to which the ACR pertains. The Mailer has the right, in accordance with the Commission's rules, to address its confidentiality concerns directly with the Commission. The procedure for making an application to the PRC for non-public treatment of materials believed to be protected from disclosure is found at Title 39, Code of Federal Regulations, Section 3007.22 found on the Commission's website: [www.prc.gov/Docs/63/63467/Order225.pdf](http://www.prc.gov/Docs/63/63467/Order225.pdf).

**19. Effect of Partial Invalidity.** The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the Parties agree that the remaining provisions shall be deemed to be in full force and effect.

**20. Intellectual Property, Co-Branding and Licensing.** The Mailer is allowed the use of the following trademarks: Priority Mail Express International™, Priority Mail International®, and Commercial ePacket™ and the acronyms PMEI™, PMI™ and CeP™ to indicate the service offered. The Parties acknowledge that in the service of marketing the



products under this Agreement that such product marketing may be enhanced through the use of co-branding or the use of each Party's trademarks, logos or intellectual property. In such instances, the Parties acknowledge and agree that any use shall be subject to separate written agreements. The Parties acknowledge and agree that neither Party shall use the other Party's trademarks, logos or intellectual property until such time that a license for such use has been executed by the Parties and all laws and regulations required for such license's effectiveness have been perfected, which shall include but not be limited to any recordation requirements.

**21. Limitation of Liability.** (1) The liability of the USPS under this Agreement shall be limited to the refund of postage for Qualifying Mail that is lost or destroyed in bulk after being tendered to the USPS and prior to being received by the delivery authority outside of the United States. The USPS shall not be liable for any actual or consequential damages suffered by the Mailer as a result of late delivery or non-delivery of any Qualifying Mail (2) The USPS shall not be liable for any loss or expense, including, but not limited to fines and penalties, for the Mailer's failure to comply with any export laws, rules, or regulations. (3) The USPS shall not be liable for any act or omission by any person not employed or contracted by the USPS, including any act or omission of the Mailer, the Mailer's customer, or the recipient of an item tendered under this Agreement. (4) The USPS bears no responsibility for the refund of postage for Qualifying Mail in connection with actions taken by Customs authorities. (5) Priority Mail Express International, Priority Mail International, and CeP shipments mailed under this Agreement are not insured against delay in delivery. (6) Unless otherwise specified by notice published in a future issue of the *Postal Bulletin* that a date-certain, postage-refund guarantee will be offered for this particular type of Global Customized Mail Agreement, Priority Mail Express International With Money-Back-Guarantee Service Qualifying Mail mailed under this Agreement is not guaranteed against delay in delivery, and neither indemnity payments nor postage refunds will be made in the event of delay. (7) The USPS is not liable for any of the Mailer's actions and bears no liability in the event of termination with or without cause.

**22. Indemnity.** The Mailer shall indemnify and save harmless the USPS and its officers, directors, agents, and employees from any and all claims, losses, costs, damages, or expenses or liabilities, including but not limited to penalties, fines, liquidated damages, charges, taxes, fees, duties, or other money due ("Claims") growing out of or connected in any other way with the discharge by the Mailer or its agent(s) of any undertaking contained in this Agreement, including Claims that result from the noncompliance of the Mailer with the laws of the United States and other countries.

**23. Governing Law.** This Agreement shall be governed by, construed, and enforced in accordance with United States federal law.

**24. Suspensions of Mail Service.** In the event that a suspension of either Priority Mail Express International, Priority Mail International or Commercial E-Packet service from the United States to a country would prevent delivery of Qualifying Mail to addressees in that country, the Mailer shall not tender Priority Mail Express International, Priority Mail International or Commercial E-Packet, as appropriate, to the USPS until service is restored.

**25. Assignment.** The rights of each Party under this Agreement are personal to that Party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other Party.

**26. No Waiver.** The failure of either Party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but these shall continue and remain in full force and effect as if such forbearance or waiver had not occurred.

**27. Paragraph Headings and Reference Citations.** The titles to the paragraphs of this Agreement are solely for the convenience of the Parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement. All citations to provisions in the DMM, IMM or Code of Federal Regulations within this Agreement are intended to refer to the substantive information found within the cited section(s) at the time this Agreement was drafted. Changes to the citations or the relevant substantive information due to published revisions of the DMM, IMM or Code of Federal Regulations shall be applicable to this Agreement upon the effective date of such revisions.

**28. Mailability, Exportability, and Importability.** (1) All items mailed under this Agreement must conform to the mailability requirements of the USPS as detailed in the IMM 130 and USPS Publication 52; all applicable United States laws and regulations, including export control and customs laws and regulations; and all applicable importation restrictions of the destination countries. For each item mailed under this Agreement, the Mailer is responsible for notifying the Mailer's customers of their responsibility for determining export and import requirements, obtaining any required licenses and permits, and ensuring that the recipient of the item is authorized by the laws of the United States as well as destination countries to receive the item, and for the exportation and importation status of the products mailed under this Agreement as detailed in IMM 112. (2) The Mailer is responsible for ensuring that no item mailed under this Agreement includes non-mailable dangerous goods. Internationally mailable dangerous goods include only



certain biological substances, certain radioactive materials, and small lithium batteries packaged in the devices they are meant to operate, as described in greater detail in IMM 135. Hazardous materials listed within the Department of Transportation's regulations, including at 49 C.F.R. § 172.101, are known as dangerous goods that are prohibited from all international mail, as set forth in Exhibit 331 of USPS Publication 52. These substances and items are in addition to any prohibitions or restrictions on imports that may be found in the Individual Country Listings in the IMM. Penalties for knowingly mailing dangerous goods may include civil penalties pursuant to 39 U.S.C. § 3018 and criminal charges pursuant to 18 U.S.C. § 1716.

**29. Warranties and Representations.** (1) The Mailer warrants and represents that the Mailer is not subject to, and is not related to, an entity that is subject to a temporary or other denial of export privileges by BIS and that the Mailer is not listed on OFAC's Specially Designated Nationals List, OFAC's Foreign Sanctions Evaders List, BIS's Denied Persons List, or BIS's Entity List, or subject to active sanctions by the U.S. Department of State pursuant to Executive Order No. 13382. The Mailer is under an ongoing obligation to give notice of any such denial or listing pursuant to Article 8, Paragraph 7. (2) The Mailer warrants and represents that the Mailer is not aware of any pending investigations that would be subject to the notice obligation under Article 8, Paragraph 7. (3) The Mailer warrants and represents that there has been no criminal, civil, or administration enforcement action in the past 5 years against the Mailer, any of its subsidiaries or affiliates, or any of its directors, officers, employees, or agents.

**30. Conditions Precedent.** (1) The Parties acknowledge and understand that all obligations of the USPS under this Agreement, including the prices listed in the Annexes, shall be contingent on the USPS receiving approvals hereinafter ("Conditions Precedent") from one or more internal and external bodies that have oversight responsibilities. Conditions Precedent may include, but are not limited to: approvals or, if applicable, non-objection, from responsible USPS management officials, the USPS Board of Governors, the USPS Governors, the Commission, and/or any other governmental body with oversight responsibility for the USPS. The Parties acknowledge that the Agreement may not be approved by such individuals or bodies. Until such time that all Conditions Precedent are fulfilled that are necessary to allow the Postal Service to provide the products or services contemplated under the Agreement, no obligation shall exist for the USPS and no benefit shall inure to either Party. (2) In the event that the Conditions Precedent are not fulfilled, the USPS shall have no liability, which shall include no obligation to pay costs associated with any action taken by the Mailer prior to the Effective Date of the Agreement. Further, in the event of termination of the Agreement or the failure of any Condition Precedent, the USPS shall not be held liable for any damages including, without limitation, actual; special; indirect; incidental; punitive; consequential; or any other damages, which shall include but not be limited to damages for loss of business profits; business interruption; any other loss; and/or for costs incurred by either Party attributable to such non-approval such as attorney's fees.

**31. Notices.** (1) All notices or demands to the Parties required by this Agreement shall be sufficient if delivered personally or mailed via Priority Mail Express Mail to the following individuals: (a) To the USPS: Managing Director, Global Business and Vice President; United States Postal Service; 475 L'Enfant Plaza SW Room 5012; Washington, DC 20260-4016; (b) To the Mailer: [REDACTED]

[REDACTED] Or via e-mail to the USPS at: [icmusps@usps.gov](mailto:icmusps@usps.gov); or to the Mailer at: [REDACTED] (2) The Mailer hereby agrees to provide the USPS with updates to the contact information in Paragraph 1 of this Article.

**32. Counterparts.** The Parties may execute this Agreement in one or more counterparts (including by facsimile or by electronic means such as .pdf format), not all Parties need be signatories to the same documents, and all counterparty-signed documents shall be deemed an original and one instrument.

**33. Compliance with Laws.** Each party will comply with all federal, state, local and foreign laws, rules and regulations applicable to its performance of this Agreement.

**34. Sovereign Acts.** The USPS and the Mailer acknowledge and agree that this Agreement is subject to any legislation that might be enacted by the Congress of the United States or any orders or regulations that might be promulgated by any agency, branch, or independent establishment of the United States Government. The USPS and the Mailer further acknowledge and agree that this Agreement in no way waives the USPS's authority to act in its sovereign capacity and that, pursuant to the sovereign acts doctrine, the USPS shall not be held liable for any acts performed in its sovereign capacity, or for any acts performed by any branch, agency or independent establishment of the United States in their sovereign capacities that may directly or indirectly affect the terms of this Agreement. In the event that either Party is required by legislation enacted by the Congress of the United States or any orders or regulations that might be promulgated by any branch, agency or independent establishment of the United States Government to terminate, or otherwise as a result of such action is unable to perform its obligations under this Agreement, either Party may give notice of termination pursuant to Article 12 of this Agreement, which termination shall be effective immediately or on the effective date of such requirement, whichever is later. The Parties agree that in the event that this Agreement is terminated as set forth in the preceding two sentences, or in the event that either Party is enjoined from proceeding with

this Agreement by any court of competent jurisdiction, such Party shall not be subject to any liability by reason of such termination or injunction. Further, the USPS will evaluate the impact on the Agreement of amendments to statutes affecting its ability to perform under this Agreement and may give notice of termination pursuant to Article 12 of this Agreement based upon such amendments, which termination shall be effective immediately or as determined by the USPS. To the extent of termination on this basis, the USPS shall not be subject to any liability by reason of such termination.

**35. PMEI**

[REDACTED]

In witness whereof, each Party to this Agreement has caused it to be executed on the latter of the two dates accompanying the Parties' signatures.

ON BEHALF OF USPS:

Signature:

Donald W. Ross

Name:

Donald W Ross

Title:

Director International Sales

Date:

7-28-2017

ON BEHALF OF

Signature:

Name:

Title:

Date:

[REDACTED]

7/28/17

ANNEX 1 PRICES FOR PRIORITY MAIL EXPRESS INTERNATIONAL

ANNEX 2 PRICES FOR PRIORITY MAIL INTERNATIONAL

ANNEX 3 PRICES FOR COMMERCIAL E-PACKET



**ANNEX 1**  
**PRICES IN UNITED STATES DOLLARS FOR PRIORITY MAIL EXPRESS INTERNATIONAL**

Weight Not Over (LBS)	
0.5	
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3	
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11	
12	
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14	
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**ANNEX 2**  
**PRICES IN UNITED STATES DOLLARS FOR PRIORITY MAIL INTERNATIONAL**

Weight Not Over (LBS)	
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**ANNEX 3**  
**PRICES IN UNITED STATES DOLLARS FOR COMMERCIAL E-PACKET**

Destination	Commercial ePacket Rate (CeP)	
	Per Piece	Per Pound

**Certification of Prices for the Global Expedited Package Services Contract with**  
[REDACTED]

I, John P. Kelley, Acting Manager of Cost Attribution, Finance Department, United States Postal Service, am familiar with the prices for the Global Expedited Package Services Contract with [REDACTED]. The prices contained in this Contract were established in accordance with the Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates, issued March 22, 2011 (Governors' Decision No. 11-6), which established prices by means of price floor formulas.

I hereby certify that the numerical cost values underlying the prices in the [REDACTED] contract are the appropriate costs to use in the formulas and represent the best available information. The prices, resulting in a cost coverage of in excess of the minimum required by the Governors' Decision, exclusive of pickup on demand and international ancillary services fees, are in compliance with 39 U.S.C § 3633 (a)(1), (2), and (3). The prices demonstrate that the Contract should cover its attributable costs and preclude the subsidization of competitive products by market dominant products. International competitive mail accounts for a relatively small percentage of the total contribution by all competitive products. Contribution from Global Expedited Package Services Contracts should be even smaller. The Agreement with [REDACTED] should not impair the ability of competitive products on the whole to cover an appropriate share of institutional costs.

**John P Kelley**

Digitally signed by John P Kelley  
DN: cn=John P Kelley, o=Cost  
Attribution, ou=Finance,  
email=John.P.Kelley@usps.gov, c=US  
Date: 2017.09.01 15:43:09 -04'00'

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John P. Kelley

## **ATTACHMENT 6**

### **APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS**

In accordance with 39 C.F.R. § 3007.21, the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed with the Commission in this docket. The materials pertain to the establishment of prices and classifications not of general applicability for Global Expedited Package Services 8 (GEPS 8) Contracts. Governors' Decision No. 11-6, the GEPS 8 Contract that is the subject of Docket CP2017-284, the certified statement concerning the GEPS 8 contract that is the subject of Docket CP2017-284, and related financial information are being filed separately under seal with the Commission, although redacted copies of these materials are filed with the Notice as Attachments 2, 4, 5, and in separate Excel files.

The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3007.21(c) below.

**(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);**

Information of a commercial nature, which under good business practice would not be publicly disclosed, as well as third party business information, is not required to be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(3) and (4). The Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. §



504(g)(3)(A).<sup>1</sup> Because the portions of materials filed non-publicly in this docket fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support the Postal Service's determination that these materials are exempt from public disclosure and grant the Postal Service's application for their non-public treatment.

**(2) Identification, including name, phone number, and e-mail address for any third party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;**

Concerning this GEPS 8 contract, the Postal Service believes that the parties with a proprietary interest in the materials include the counterparty to the contract and a foreign postal operator. The Postal Service maintains that customer identifying information should be withheld from public disclosure. Therefore, rather than identifying the counterparty with a proprietary interest in the materials for the contract that is the subject of this docket, the Postal Service gives notice that it has already informed that party of the nature and scope of this filing and their ability to address their confidentiality concerns directly with the Commission. The Postal Service employee responsible for providing notice to the customer with proprietary interest in the materials filed in this docket is Ms. Amy E. Douvlos, Marketing Specialist, Global Business, United States Postal Service, 475 L'Enfant Plaza, SW, Room 5427, Washington, DC 20260-4017, whose email address is Amy.E.Douvlos@usps.gov, and whose telephone number is 202-268-3777.

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<sup>1</sup> The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

As for the foreign postal operator, the Postal Service has already informed that foreign postal operator, in compliance with 39 C.F.R. § 3007.20(b), of the nature and scope of this filing and its ability to address its confidentiality concerns directly with the Commission.<sup>2</sup>

**(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;**

In connection with its Notice filed in this docket, the Postal Service included a contract, financial workpapers, and a statement for the contract certifying that the agreement should meet the requirements of 39 U.S.C. § 3633(a)(1), (2), and (3). These materials were filed under seal, with redacted copies filed publicly, after notice to the customer. The Postal Service maintains that the redacted portions of the contract, related financial information, and identifying information concerning the GEPS customer, should remain confidential.

With regard to the GEPS 8 agreement filed in this docket, some customer-identifying information appears in the redacted sections of the agreement on page 1, in Article 31, in the signature block, and in the footer of the agreement and its annexes. This information constitutes the name or address of a postal patron whose identifying information may be withheld from mandatory public disclosure by virtue of 39 U.S.C. § 504(g)(1) and 39 U.S.C. § 410(c)(2). Therefore, such information is redacted.

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<sup>2</sup> Because of the sensitive nature of the Postal Service's rate relationship with the foreign postal operator, the Postal Service proposes that a designated Postal Service employee, in accordance with 39 C.F.R. § 3007.21(c), serve as the point of contact for any notices to the relevant postal operator. The Postal Service identifies as an appropriate contact person Donald W. Ross, Executive Director, International Sales. Mr. Ross' phone number is (973) 477-4406, and his email address is donald.w.ross@usps.gov.

The redactions to Articles 1, 3, 6, 7, 10, 14, 15, 16, and 35 protect information with specific impact on the customer, including the preparation requirements, the identify of interested third parties, the minimum commitment to the Postal Service, the payment of customs duties and taxes, the timing and manner in which the Postal Service might change prices under the contract, and certain other negotiated terms. In addition, the prices in Annexes 1, 2 and 3 of the agreement are redacted.

The redactions made in the Annexes 1, 2, and 3 of the contract, other than those involving the customer's name, withhold the actual prices that are being offered to the customer in exchange for its commitments and performance of its obligations under the terms of the agreement.

The redactions applied to the financial workpapers protect commercially sensitive information such as underlying costs and assumptions, pricing formulas, information relevant to the mailing profile of the customer, and cost coverage projections. To the extent practicable, the Postal Service has limited its redactions in the workpapers to the actual information it has determined to be exempt from disclosure under 5 U.S.C. § 552(b). However, in a limited number of cases, narrative passages, such as words or numbers in text, were replaced with general terms describing the redacted material. For example, where the mailer's name appears in the spreadsheet within a cell, it has been replaced by the word "Mailer."

To the extent that the Postal Service files data in future filings that will show the actual revenue and cost coverage of the customer's completed contract, the Postal Service will redact in its public filing all of the values included that are commercially

sensitive information and will also protect any customer identifying information from disclosure.

**(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;**

If the portions of the contract that the Postal Service determined to be protected from disclosure due to its commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. First, revealing customer identifying information would enable competitors to focus marketing efforts on current postal customers which have been cultivated through the efforts and resources of the Postal Service. The Postal Service considers that it is highly probable that if this information were made public, the Postal Service's competitors would take immediate advantage of the information. The GEPS 8 competitive agreements include a provision allowing the mailer to terminate the contract without cause by providing at least 30 days' notice. Therefore, there is a substantial likelihood of the Postal Service losing customers to a competitor that targets the Postal Service's customers with lower pricing.

Other redacted information in this Agreement (which is included as Attachment 4 to this notice) includes negotiated contract terms, such as the minimum revenue commitment agreed to by the customer, sensitive business information including payment processes and mail preparation requirements, the identifying information of any participating foreign postal operator(s) and the percentage of cost increase which may trigger a consequential price increase. This information is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. Competitors could use the information to assess the offers made by the

Postal Service to its customers for any possible comparative vulnerabilities and to focus sales and marketing efforts on those areas, to the detriment of the Postal Service.

Additionally, other potential customers could use the information to their advantage in negotiating the terms of their own agreements with the Postal Service. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

The financial workpapers include specific information such as costs, assumptions used in pricing formulas, the formulas themselves, mailer profile information, projections of variables, contingency rates included to account for market fluctuations and the exchange risks. Similar information may be included in the cost, volume and revenue data associated with the GEPS 8 agreement that the Commission may require the Postal Service to file after the expiration of this agreement. All of this information is highly confidential in the business world. If this information were made public, the Postal Service's competitors would have the advantage of being able to determine the absolute floor for Postal Service pricing. Unlike its competitors, the Postal Service is required, as stated in the Mail Classification Schedule, to demonstrate in accordance with 39 U.S.C. § 3633 that each negotiated agreement within this group covers its attributable costs. Thus, competitors would be able to take advantage of the information to offer lower pricing to GEPS 8 competitive contract customers, while subsidizing any losses with profits from other customers. Eventually, this could freeze the Postal Service out of the relevant market. Because these spreadsheets are filed in their native format, the Postal Service's assessment is that the likelihood that the information would be used in this way is great.

Potential customers could also deduce from the rates provided in the contract, from the information in the workpapers, or from the cost, volume and revenue data that the Commission may require the Postal Service to file after the agreement's expiration, whether additional margin for net profit exists between the contract being filed and the contribution that GEPS 8 competitive contracts must make. From this information, the customer could attempt to negotiate ever-increasing incentives, such that the Postal Service's ability to negotiate competitive yet financially sound rates would be compromised. Even a customer involved in GEPS 8 contracts could use the information in the workpapers, or the cost, volume and revenue data associated with the expired agreement, in an attempt to renegotiate its own rates by threatening to terminate its current agreement, although the Postal Service considers this risk to be lower in comparison to those previously identified.

Price information in the contract and its financial spreadsheets, as well as any cost, volume and revenue data concerning the contract filed after the agreement's expiration, consists of sensitive commercial information of the customer. Disclosure of such information could be used by competitors of the customer to assess the customer's underlying costs, and thereby develop a benchmark for the development of a competitive alternative.

Information in the financial spreadsheets and any cost, volume and revenue data concerning this agreement filed after the expiration of this contract also consists of sensitive commercial information related to agreements between the Postal Service and interested third parties. Such information would be extremely valuable to competitors of both the Postal Service and third parties. Using detailed information about such

agreements, a competitor would be able to better understand the counterparty's underlying costs, and identify areas where the competitor could adapt their own operations to be more competitive. In addition, competitors of the counterparty could use such information to their advantage in negotiating the terms of their own agreements with the Postal Service. Competitors of foreign postal operators could use the information in the financial spreadsheets to understand their nonpublished pricing to better compete against them.

**(5) At least one specific hypothetical, illustrative example of each alleged harm;**

Identified harm: Revealing customer identifying information would enable competitors to target the customers for sales and marketing purposes.

Hypothetical: The identity of the customer in a GEPS 8 contract is revealed to the public. Another delivery service has an employee monitoring the filing of GEPS 8 agreements and passing along the information to its sales function. The competitor's sales representatives could quickly contact the Postal Service's customer and offer the customer lower rates or other incentives to terminate its contract with the USPS in favor of using the competitor's services.

Identified harm: Public disclosure of the pricing included in the agreement would provide potential customers extraordinary negotiating power to extract lower rates.

Hypothetical: Customer A's negotiated rates are disclosed publicly on the Postal Regulatory Commission's website. Customer B sees the rates and determines that there may be some additional profit margin between the rates provided to Customer A

and the statutory cost coverage that the Postal Service must produce in order for the agreement to be added to the competitive products list. Customer B, which was offered rates identical to those published in Customer A's agreement, then uses the publicly available rate information to insist that Customer B must receive lower rates than those the Postal Service has offered it, or Customer B will not use the Postal Service for its expedited package service delivery needs.

Alternatively, Customer B attempts to extract lower rates only for those destinations for which it believes the Postal Service is the low-cost provider among all service providers. The Postal Service may agree to this demand in order to keep the customer's business overall, which the Postal Service believes will still satisfy total cost coverage for the agreement. Then, the customer might use other providers for destinations other than those for which the customer extracted lower rates. This would impact the Postal Service's overall projected cost coverage for the agreement, such that the Postal Service might no longer meet its cost coverage requirement. Although the Postal Service could terminate the contract when the Postal Service first recognizes that the mailer's practice and projected profile were at variance, the costs associated with establishing the contract, including filing it with the Postal Regulatory Commission, would be sunk costs that would have a negative impact on the GEPS 8 Contracts competitive product overall.

Identified harm: Public disclosure of information in the financial workpapers would be used by competitors and customers to the detriment of the Postal Service and foreign postal operators.



Hypothetical: A competing delivery service obtains a copy of the unredacted version of the financial workpapers from the Postal Regulatory Commission's website. The competing delivery service analyzes the workpapers to determine what the Postal Service would have to charge its customers in order to meet the Postal Service's minimum statutory obligations for cost coverage and contribution to institutional costs. The competing delivery service sets its own rates for products similar to what the Postal Service offers its GEPS 8 competitive contract customers under that threshold, and then the competing delivery service markets its ability to guarantee to beat the Postal Service on price. By sustaining this below-market strategy for a relatively short period of time, the competitor, or all of the Postal Service's competitors acting in a likewise fashion, would freeze the Postal Service and associated foreign postal operators out of the markets for which the GEPS 8 competitive contract product is designed.

Identified harm: Public disclosure of information in the contract and the financial workpapers would be used by the counterparty's and its customer's competitors to the counterparty's detriment.

Hypothetical: A firm competing with the customer obtains a copy of the unredacted version of the contract and financial workpapers from the Postal Regulatory Commission's website. The competitor analyzes the prices and the workpapers to assess the customer's underlying costs, volumes, and volume distribution for the corresponding delivery products. The competitor uses that information to (i) conduct

market intelligence on the customer's business practices, and (ii) develop lower-cost alternatives using the customer's mailing costs as a baseline.

Identified harm: Public disclosure of information in the contract and financial workpapers would be used by the competitors of the third party to the detriment of the Postal Service and/or the counterparty to the agreement.

Hypothetical: A firm competing with the interested third party obtains a copy of the unredacted version of the contract and financial workpapers from the Commission's website. The firm uses the information to assess the third party's revenue sources and growth opportunities, and thereby develop benchmarks for competitive alternatives. In addition, disclosure of such information could provide leverage to other parties in their negotiations with the Postal Service concerning financial arrangements that those parties may make with the Postal Service in the future.

Identified harm: Public disclosure of any cost, volume and revenue data concerning this agreement that the Commission may require the Postal Service to file after the contract's expiration would give competitors a marketing advantage.

Hypothetical: A competitor could use any cost, volume and revenue data associated with this agreement, which the Commission may require the Postal Service to file in this docket after this agreement's expiration, to "qualify" potential customers. The competitor might focus its marketing efforts only on customers that have a certain

mailing profile, and use information in the performance report to determine whether a customer met that profile.

**(6) The extent of protection from public disclosure deemed to be necessary;**

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant market for parcel and expedited services, as well their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for this or similar products should not be provided access to the non-public materials.

**(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof;**

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.

**(8) Any other factors or reasons relevant to support the application.**

None.

***Conclusion***

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.